



REQUEST FOR ORDINANCE FOR MAJOR ENCUMBRANCE PERMIT

Special project, see notes

TO: Karen Walton, City Attorney's Office

FROM: Robert J. Duncanson, P.E. *Robert J. Duncanson*
Manager 2, Development Engineering Services

ROW NO.: 2013-0304-01

DATE: November 29, 2013

SUBJECT: To terminate Ordinance #349, Series of 1979, and to grant a new Ordinance to, UBS Global Asset Management, which will include the improvements and area of the old encroachments of a drive through canopy, as well as the new encroachments of a glass and metal curtain wall along 17th St. and Welton St.

****NOTES**:** Owner requests revocation of old permit and would like to include it on the new permit.

There are 2 legal descriptions for this project.

It is requested that the above subject item be placed on the next available Mayor Council Agenda.

This office has investigated the request from Andrew Fairbairn of Service First Permits dated 7/5/2013, on behalf of UBS Global Asset Management for the granting of the above-subject permit.

This matter has been checked by this office and has been coordinated with Asset Management; Colorado Department of Transportation (if required); Comcast Corporation; Commission For People With Disabilities; Councilperson Brooks; CPD: Building & Construction Services, Planning Services, and Zoning & Development Review; Denver Water Board; Environmental Services (if required); Fire Department (if required); Metro Wastewater Reclamation District; Office of Emergency Management; Office of Telecommunications; Parks and Recreation; Public Works: City Engineer, DES Construction Engineering, DES Engineering, DES Survey, IPP Infrastructure Engineering, and Street Maintenance; Qwest Corporation; Regional Transportation District; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement.

As a result of the investigations, it has been determined that there is no objection to the granting of the revocable permit.

Therefore, you are requested to initiate Council action for the granting to terminate Ordinance #349, Series of 1979, and to grant a new Ordinance to UBS Global Asset Management, which will include the improvements and area of the old encroachments of a drive through canopy, as well as the new encroachments of a glass and metal curtain wall along 17th St. and Welton St.

INSERT PARCEL DESCRIPTION ROW 2013-0304-01-001 HERE
INSERT PARCEL DESCRIPTION ROW 2013-0304-01-002 HERE

STANDARD PROVISIONS

The revocable permit ("Permit") granted by this resolution is expressly granted upon and subject to each and all of the following terms and conditions:

- (a) Permittee shall obtain a street occupancy permit from Public Works Permit Operations at 2000 West 3rd Avenue, 303.446.3759, and prior to commencing construction.
- (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs that are necessary for installation and construction of items permitted herein.
- (c) If the Permittee intends to install any underground facilities in or near a public road, street, alley, right-of-way or utility easement, the Permittee shall join the Statewide Notification Association of Owners and Operators of Underground Facilities by contacting the Utility Notification Center of Colorado, 12600 West Colfax Ave, Suite B-310, Lakewood, Colorado, 80215 at 303.232.1991. Further, Permittee shall contact the Utility Notification Center at 1-800-922-1987 to locate underground facilities prior to commencing any work under this permit.
- (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver due to activities authorized by the permit. Should the relocation or replacement of any drainage facilities for water and sewage of the City and County of Denver become necessary as determined by the Manager of Public Works, in the Manager's sole and absolute discretion, Permittee shall pay all cost and expense of the portion of the sewer affected by the permitted structure. The extent of the affected portion to be replaced and relocated by Permittee shall be determined by the Manager of Public Works. Any and all replacement or repair of facilities of the Water Department and/or drainage facilities for water and sewage of the City and County of Denver attributed to the Permittee shall be made by the Water Department and/or the City and County of Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or destroyed due to the Water Department's or the City and County of Denver's repair, replacement and/or operation of its facilities, repairs will be made by Permittee at its sole expense. Permittee agrees to defend, indemnify and save the City harmless and to repair or pay for the repair of any and all damages to said sanitary sewer, or those damages resulting from the failure of the sewer to properly function as a result of the permitted structure.
- (e) Permittee shall comply with all requirements of affected utility companies and pay for all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing telephone facilities shall not be utilized, obstructed or disturbed.
- (f) All construction in, under, on or over the Encroachment Area shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and Specifications governing the construction of the Encroachments shall be approved by the Manager of Public Works and the Director of the Building Inspection Division prior to construction. Upon completion, a reproducible

copy of the exact location and dimensions of the Encroachments shall be filed with the Manager of Public Works.

- (g) The sidewalk and street/alley over the Encroachment Area shall be capable of withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The installations within the Encroachment Area shall be constructed so that the paved section of the street/alley can be widened without requiring additional structural modifications. The sidewalk shall be constructed so that it can be removed and replaced without affecting structures within the Encroachment Area.
- (h) Permittee shall pay all costs of construction and maintenance of the Encroachment. Upon revocation of the permit or upon abandonment, Permittee shall pay all costs of removing the Encroachment from the Encroachment Area, and return the Encroachment Area to its original condition under the supervision of the City Engineer.
- (i) Permittee shall remove and replace any and all street/alley paving, sidewalks, and curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that become broken, damaged or unsightly during the course of construction. In the future, Permittee shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that become broken or damaged when, in the opinion of the City Engineer, the damage has been caused by the activity of the Permittee within the Encroachment Area. All repair work shall be accomplished without cost to the City and under the supervision of the City Engineer.
- (j) The City reserves the right to make an inspection of the Encroachments contained within the Encroachment Area. An annual fee, subject to change, of \$200.00 shall be assessed.
- (k) This revocable permit shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of the Encroachment Area and adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their facilities within the Encroachment Area and adjacent rights-of-way.
- (l) During the existence of the Encroachments and this permit, Permittee, its successors and assigns, at its expense, and without cost to the City and County of Denver, shall procure and maintain a single limit comprehensive general liability insurance policy with a limit of not less than \$500,000.00. All coverage's are to be arranged on an occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the Risk Manager of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager of Public Works, and each such policy shall contain a statement therein or

endorsement thereon that it will not be canceled or materially changed without written notice, by registered mail, to the Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City and County of Denver as an additional insured.

- (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of the City and County of Denver. The failure to comply with any such provision shall be a proper basis for revocation of this permit.
- (n) The right to revoke this permit is expressly reserved to the City and County of Denver.
- (o) Permittee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and privileges granted by this permit.

SPECIAL CONDITIONS FOR THIS PERMIT

- (p) None

A map of the area is attached hereto.

RJD: vlw

cc: Asset Management, Steve Wirth
City Council Office, Gretchen Williams
Councilperson Brooks and Aides
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Shaun Sullivan
Department of Law, Karen Walton
Public Works, Alba Castro
Public Works, Nancy Kuhn
Project File # 2013-0304-01

Property Owner:
UBS Global Asset Management
c/o Tim Cahill
455 Market St Suite 1000
San Francisco, Ca 94105

Agent:
Service First Permits
Andrew Fairbairn
952 Utica St
Denver Co 80204

ORDINANCE/RESOLUTION REQUEST

Please email requests to Nancy Kuhn at
Nancy.kuhn@denvergov.org by **NOON on Monday**.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: November 29, 2013

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. **Title:** (Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)

To terminate Ordinance #349, Series of 1979, and to grant a new Ordinance to, UBS Global Asset Management, which will include the improvements and area of the old encroachments of a drive through canopy, as well as the new encroachments of a glass and metal curtain wall along 17th St. and Welton St.

3. **Requesting Agency:** Public Works Plan Review Services

4. **Contact Person:** (With actual knowledge of proposed ordinance/resolution.)

- **Name:** Vanessa West
- **Phone:** 720-913-0719
- **Email:** vanessa.west@denvergov.org

5. **Contact Person:** (With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)

- **Name:** Nancy Kuhn
- **Phone:** 720-865-8720
- **Email:** nancy.kuhn@denvergov.org

6. **General description of proposed ordinance including contract scope of work if applicable:**

To terminate Ordinance #349, Series of 1979, and grant a new Ordinance with the old items on the 1979 Ordinance and the new items listed above

****Please complete the following fields:** (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)

- a. **Contract Control Number:** N/A
- b. **Duration:** Permanent
- c. **Location:** 17th St and Welton St
- d. **Affected Council District:** #8 Brooks
- e. **Benefits:** N/A
- f. **Costs:** N/A

7. **Is there any controversy surrounding this ordinance?** (Groups or individuals who may have concerns about it?) **Please explain.**

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



DENVER
THE MILE HIGH CITY

EXECUTIVE SUMMARY

Project Title: 2013-0304-01 MEP Grand Hyatt 17th St & Welton St

Description of Proposed Project: To terminate Ordinance #349, Series of 1979, and to grant a new Ordinance to, UBS Global Asset Management, which will include the improvements and area of the old encroachments of a drive through canopy, as well as the new encroachments of a glass and metal curtain wall along 17th St. and Welton St.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: Upgrading the building

Has a Temp MEP been issued, and if so, what work is underway: No

What is the known duration of an MEP: Permanent

Will land be dedicated to the City if the vacation goes through: N/A

Will an easement be placed over a vacated area, and if so explain: N/A

Will an easement relinquishment be submitted at a later date: N/A

Additional information: Revoke the old Ordinance and grant a new one for all the items (old and new included)

EXHIBIT A

1700 WELTON STREET

DES PROJECT # 2013-XXXXX ⁰³⁰⁴

DES PARCEL #2013-XXXX-XX-XXX ^{0304 01 001}

LEGAL DESCRIPTION

A PORTION OF THE PUBLIC RIGHT OF WAY IN WELTON STREET ADJACENT TO BLOCK 175, EAST DENVER; SITUATED IN THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE BASIS OF BEARINGS OF THIS DESCRIPTION IS S45°17'43"E BETWEEN TWO FOUND CHISELED CROSSES ON 4'x4' OFFSETS TO THE WEST CORNER OF SAID BLOCK 175 AND THE SOUTH CORNER OF SAID BLOCK 175, RESPECTIVELY;

BEGINNING AT THE WEST CORNER OF LOT 16 OF SAID BLOCK 175; THENCE N45°17'43"W A DISTANCE OF 4.50 FEET; THENCE N44°46'14"E, PARALLEL WITH THE NORTHWEST LINE OF SAID BLOCK 175, A DISTANCE OF 154.60 FEET; THENCE S45°13'46"E A DISTANCE OF 4.50 FEET TO A POINT ON THE NORTHWEST LINE OF SAID BLOCK 175; THENCE S44°46'14"W, ALONG THE NORTHWEST LINE OF SAID BLOCK 175, A DISTANCE OF 154.60 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 696 SQUARE FEET, 0.016 ACRES, MORE OR LESS.

THIS LEGAL DESCRIPTION WAS PREPARED BY:

DON LAMBERT, PLS 30830
FOR AND ON BEHALF OF FRONTIER SURVEYING, INC.
352 NORFOLK STREET, AURORA, CO 80011



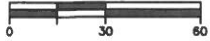
SHEET 1 OF 2



EXHIBIT A

1700 WELTON STREET

Scale: 1" = 60'



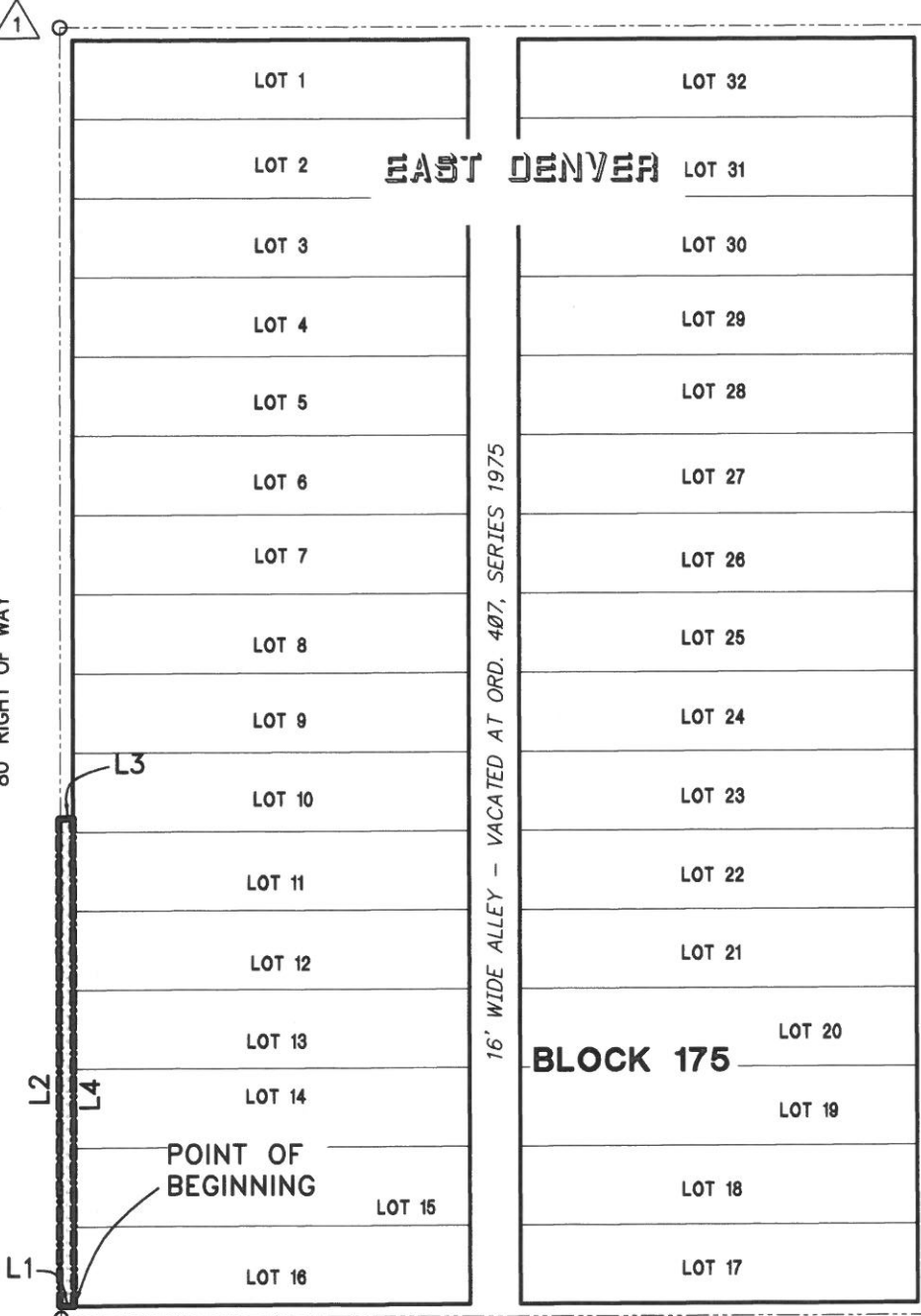
18TH STREET

80' RIGHT OF WAY

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N45°17'43"W	4.50
L2	N44°46'14"E	154.60
L3	S45°13'46"E	4.50
L4	S44°46'14"W	154.60

WELTON STREET

80' RIGHT OF WAY



16' WIDE ALLEY - VACATED AT ORD. 407, SERIES 1975

EAST DENVER

BLOCK 175

GLENARM PLACE

80' RIGHT OF WAY



FOUND A CHISELED CROSS IN CONCRETE AT A 4'x4' OFFSET TO THE BLOCK CORNER AS PER AN ALTA SURVEY PREPARED BY JEHN ENGINEERING DATED 5/18/06

THIS DRAWING DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO GRAPHICALLY DEPICT THE PARCEL DESCRIBED AT SHEET 1

SHEET 2 OF 2



FRONTIER SURVEYING, INC.

352 Norfolk Street
Aurora, CO 80011

Ofc. 303-340-0113
Fax. 303-340-0114

S45°17'43"E 274.09
BASIS OF BEARINGS

17TH STREET

80' RIGHT OF WAY

20' RANGE LINE

That part of Weltor Street adjacent to Block 175, East Denver, described as follows:

Commencing at the most westerly corner of Block 175, East Denver;

thence northeasterly along the northwesterly line of said Block 175, 154.51 feet to the true point of beginning;

thence northwesterly and parallel with the southwesterly line of said Block 175 extended northwesterly 10.52 feet;

thence northeasterly and parallel with the northwesterly line of said Block 175, 35 feet;

thence southeasterly and parallel with the southwesterly line of said Block 175 extended northwesterly 10.52 feet;

thence southwesterly along the northwesterly line of said Block 175 to the point of beginning.

COUNCIL BILL NO. 359, SERIES OF 1979 INTRODUCED BY SCHEITLER, SANDOS, HACKWORTH, DONOHUE, BURKE, REYNOLDS AND CRIDER.

A BILL FOR AN ORDINANCE GRANTING A REVOCABLE PERMIT OR LICENSE TO OXFORD-ANSCO DEVELOPMENT COMPANY, ITS SUCCESSORS AND ASSIGNS, TO ENCR OACH WITH DRIVE-THROUGH CANOPY INTO STREET RIGHT-OF-WAY ADJACENT TO FAIRMONT HOTEL AT 1750 WELTON STREET, SUBJECT TO CERTAIN TERMS AND CONDITIONS.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That the City and County of Denver hereby grants to Oxford-Ansco Development Company, its successors and assigns, a revocable permit or license to encroach with drive-through canopy in the following described area in the City and County of Denver and State of Colorado, to-wit:

That part of Welton Street adjacent to Block 175, East Denver, described as follows: Commencing at the most westerly corner of Block 175, East Denver; thence northeasterly along the northwesterly line of said Block 175, 154.51 feet to the true point of beginning; thence northwesterly and parallel with the southwesterly line of said Block 175 extended northwesterly 10.52 feet; thence northeasterly and parallel with the northwesterly line of said Block 175, 35 feet; thence southeasterly and parallel with the southwesterly line of said Block 175 extended northwesterly 10.52 feet; thence southwesterly along the northwesterly line of said Block 175 to the point of beginning.

Section 2. The revocable license or permit granted by this Ordinance is expressly granted upon and subject to each and all of the following terms and conditions:

(a) All construction in, on or over the area of encroachment shall be accomplished in accordance with the Building Code of the City and County of Denver. Plans and specifications governing the construction of the canopy, shall be approved by the Manager of Public Works and the Director of Building Inspection Division prior to construction. Upon completion, a reproducible copy of the exact location and dimensions of the encroachment shall be filed with the Manager of Public Works.

(b) The licensee shall pay all costs of construction and maintenance of said canopy and upon revocation of permit as provided herein or upon abandonment shall pay all costs of removing the said structure from the encroachment area and return the street to its original condition under the supervision of the City Engineer.

(c) This revocable permit or license shall not operate or be construed to abridge, limit or restrict the City and County of Denver in exercising its right to make full use of Welton Street as a public thoroughfare nor shall it operate to restrict the utility companies in exercising their rights to construct, remove, operate and maintain their installations within the said street.

Any costs that are incurred relocating facilities for the utility companies during construction within the encroachment area will have to be borne by the licensee.

(d) The licensee shall agree to indemnify and always save the City and County of Denver harmless from all costs, claims or damages arising out of the rights granted by this permit.

(e) During the existence of said encroachment, the licensee or permittee, its successors and assigns, at its or their expense, and without cost to the City and County of Denver, shall procure and maintain a liability policy or include public liability and property damage on an occurrence basis, covering the premises and operations with bodily injury limits of not less than \$50,000.00 as to any one person and \$250,000.00 as to any one occurrence and with the property damage limit of not less than \$25,000.00 for any one occurrence. All coverages are to be arranged on the occurrence basis and include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage hereinabove enumerated constitutes a minimum

licensee or permittee, its successors or assigns, under the terms of this revocable license or permit; all of the insurance coverage required herein shall be written in form and by a company or companies approved by the Manager of Public Works of the City and County of Denver and authorized to do business in the State of Colorado. A certified copy of all such insurance policies shall be filed with the said Manager of Public Works and each such policy shall contain a statement therein of endorsement thereon that it will not be cancelled or materially changed or altered without at least thirty days prior written notice, by registered mail, to the said Manager of Public Works at least thirty days prior to the termination of the term; all such insurance policies shall be specifically endorsed to include all liability assumed by the licensee or permittee hereunder and shall name the City and County as beneficiary.

(f) The licensee shall remove and replace any and all curb and gutter, street paving and sidewalks, both inside the area of encroachment and in the area of the street adjoining thereto, that become broken, damaged or unsightly during the course of construction without cost to the City.

In the future the licensee shall also remove, replace or repair any curb and gutter, street paving and sidewalks in Welton Street adjacent to Block 175, East Denver, that become broken or damaged when in the opinion of the City Engineer the damage has been caused by the construction within the area of encroachment.

The work required to effect the said repairs shall be accomplished without cost to the City and under the supervision of the City Engineer.

(g) The City and County of Denver reserves the right to make an inspection of the canopy and facilities contained within the confines of this encroachment for which an annual fee of \$50.00 shall be assessed.

(h) The said canopy shall be deemed appurtenant to the property known as 1750 Welton Street.

Section 3. That the revocable permit or license hereby granted shall be revocable at any time that the Council of the City and County of Denver shall determine that the public convenience and necessity or the public health, safety or general welfare require such revocation, and the right to revoke the same is hereby expressly reserved to the City and County of Denver, at a reasonable time prior to Council action upon such revocation or proposed revocation opportunity shall be afforded to licensee or permittee, its successors and assigns, to be present at a hearing to be conducted by the Council upon such matters and thereat to present its or their view and opinions thereof and to present for consideration action or actions alternative to the revocation of such license or permit.

Section 4. That this license or permit shall be of no force or effect until the following things have been done and performed:

(a) The licensee or permittee shall have filed with the Manager of Public Works a written acceptance of the terms and conditions of this ordinance together with a fee for filing with the Clerk and Recorder in and for the City and County of Denver; said acceptance shall be in substantially the following form:

Date: _____
We the undersigned do hereby accept all of the terms and conditions recited in Ordinance No. _____ Series of _____

Signed By: _____
(Permittee or Licensee)

By: _____
(Name of Officer)

(b) The licensee or permittee shall have filed with the Manager of Public Works all insurance policies and certificates herein recited, and

(c) The Manager of Public Works shall have certified in writing that the foregoing requirements have been performed

PASSED BY THE Council July 23, 1979. ELVIN R. CALDWELL, President. Approved. W. H. MICHOLS JR., Mayor July 24, 1979. Attest: P. J. SERAFINI, Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver. (Seal) Published in The Daily Journal July 20, 1979 and July 27, 1979 391 PREPARED BY: MAX P. ZALL, CITY ATTORNEY

By: W H V. 7-10-79